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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/728,187	12/01/2000	Mark G. Crawford	SST/1083	4508

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EXAMINER

KATCHEVES, BASIL S

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 05/17/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

RECEIVED

MAY 23 2002

JAMES R. CYPHER

Due: 8-17-02  
Docket: 7-7-02

**Office Action Summary**

Application No.

09/728,187

Applicant(s)

CRAWFORD ET AL.

Examiner

Basil Katcheves

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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### ***Election/Restrictions***

Applicant's election without traverse of species C, figure 8 in Paper No. 13 is acknowledged.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-3 and 25 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 2 of U.S. Patent No. 6,109,850 to Commins. Although the conflicting claims are not identical, they are not patentably distinct from each other.

Regarding claims 1, 2 and 3, Commins '850 discloses a wood screw for use in a shear connection with a wood structural element. Commins '850 also discloses the screw having a shank with a head (claim 1, a), a pointed portion formed on an extremity of the shank, a plurality of threads and a recess providing a cutting edge (claim 2, b), thread convolutions on the pointed end portion with an outer diameter greater than the

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diameter of the first bore and adapted to engage threads in a wood structure (claim 2, c). Commins '850 also discloses the shank having a knurled portion formed with a plurality of knurls having dull edges extending axially along the shank (claim 2, d), knurls formed with a tapered entering portion forming a smooth transition between the inner diameter of the shank and the outer diameter of the knurled portion (claim 2, e), and an unthreaded portion on the shank having a diameter generally equal to the outside diameter of the knurled portion and has a first portion adjacent the second portion of the knurled portion extending axially along the shank distance greater than the length of the knurled portion (claim 2, f). Commins '850 also discloses knurls having dull edges bend over, buckle and crush without severing the wood fibers of the inner portions of the threads formed in the wood structural members (claim 2, g), a head integrally connected to the shank (claim 2, h) and the unthreaded portion of the shank extending within the wood structure (claim 2, l).

However, Commins '850 does not disclose a multi-ply wood structure including a plurality of wood screw fasteners. Commins '850 discloses the claimed invention except for the above mentioned. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a plurality of wood structural members and a plurality of wood screw fasteners, since it has been held that a mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. V. Bemis Co.*, 193 USPQ 8.

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Claims 4-24 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 2 of U.S. Patent No. 6,109,850 to Commins in view of U.S. Patent No. 4,580,780 to Gautraud et al.

Regarding claims 4-24, Commins discloses a wood screw fastener for use with a structural wood member. However, Commins does not disclose the structural member as being a wood floor truss. Gautraud discloses a wood floor truss having parallel top and bottom chords (fig. 2: 32), vertical members (fig. 2: 44) and diagonal members (fig. 2: 40). Gautraud also discloses securing the truss members by any suitable means (column 4, lines 24-25). It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the inventions of Commins and Gautraud et al. in order to create a more solid wooden floor truss structure, as wood screws are commonly used to secure structural wood components.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The cited patents listed on the included form PTO-892 further show the state of the art with respect to wood fasteners and floor trusses in general.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (703) 306-0232. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman, can be reached at (703) 308-0832.

BK *BK*

5/9/02

Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600